know the scope of that suit to ascertain what was decided in that case. The suit was filed for the following reliefs:

(*a*) a declaration that the report of the Commissioners in Election Petition 1/113 does not contain a finding that the plaintiff has been guilty of any corrupt practice and that he is entitled to have his name retained on the electoral rolls and to stand as a candidate for the Legislative Council;

(*b*) a declaration that the report of the Commissioners in E. P. 1/114, is illegal and ultura vires, that the order of Government passed on the same is invalid, that Mr. Salem is hence not the duly elected member and the plaintiff still continues to be the Member for the Mattancheri constituency; and

(*c*) recovery of damages of Rs. 100 from the defendants. Therefore, the House will note that two simple points alone arose in that suit:—1. whether there was a finding in the report on E.P. 1 of 113 that plaintiff was guilty of corrupt practices, 2. whether the report on E. P. 1 of 114 is illegal or ultravires. The question what are corrupt practices entailing disqualification for membership did not arise in the suit. The finding of the trial court was that the court had no jurisdiction to entertain such a suit. No other question was decided in the suit. Mr. Kannu Pillai filed an appeal in the High Court and the decision of the High Court is reported in 34 Cochin 893. The High Court also held that the Civil Court had no jurisdiction to entertain a suit to set aside a report of the Commissioners appointed by the Government in connection with an election petition. That was the only question decided. The High Court really did not decide in the appeal any other matter. My point is that the only point upon which the decision can be relied upon as an authority is the question whether a civil court has jurisdiction to entertain a suit to review or set aside the report submitted by the Election Commissioners. If in the course of stating reasons, a Judge expressed certain arguments, they are not binding as an authority. In considering the question whether the commissioners have exceeded their jurisdiction in declaring the election void the Judge observed that what is a disqualification for a voter is a disqualification to be a candidate. This refers to a person standing as a candidate. The question of disqualification for continuing to be a member did not arise in the suit and was not decided. Therefore, my submission is that the objection raised by my hon'ble friend upon the ground that there is a decision of the High Court finding that certain corrupt practices entail disqualification for continuing to be a member of the Council is not maintainable at all. In the course of the judgment, a judge may express various opinions. They are.....

Mr. President : Only an *obiter dicta.*

Mr. Paul P. Mampilli *(Advocate-General):* Yes, in legal phraseology, we call it so. That is not binding upon the Government, that is not binding on lower courts or on a bench of the same Court. The only point that is pertinent and that is binding upon the Government as well as upon lower Courts and the same Court is that the civil court has no jurisdiction to entertain a suit on such a matter. No other point has been decided by the High Court. In the circumstances, I submit that the objection raised by the Hon'ble Member is not maintainable.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* Can I be permitted to show to the Chair that the position taken up by the learned Advocate-General is hollow and fallacious?

Mr. President : Well, we cannot go on like that. The Hon'ble Member had his say. I give the ruling. When a person is declared by competent authority to have been elected a member of this House, it is not the business of the Chair to go behind that declaration and investigate the legality or otherwise of the election. The Chair is not an election tribunal. Therefore, the Hon'ble Members mentioned are members of this House and the House is properly constituted.

2. Swearing in of new member

Mr. C. R. Iyyunni *(Minister for Revenue):* Hon'ble Minister for Revenue, was sworn in

3. Announcement of Panel of Chairmen

Mr. President: The following Hon'ble Members will be the Panel Chairmen for this session.—

Mr. Paramel Ipe Ipe.
Mr. K. T. Achuthan.

4. Bills assented to by His Highness the Mararaja

Secretary to the Council.—The following Bills have been assented to by His Highness the Maharaja.—

The Cochin Payment of Salaries and Allowances Act (Amendment) Bill.
The Cochin Court Fees Act (Amendment) Bill.

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